

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1203

Introduced by Senator Hertzberg

February 18, 2016

~~An act to amend Section 22820 of the Government Code, relating to public employee benefits. An act to add Section 7522.05 to the Government Code, relating to retirement.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1203, as amended, Hertzberg. ~~Firefighters and peace officers: health benefits. Retirement systems: joint powers authorities: benefit formulas.~~

The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its plan or plans to comply with the act and, among other provisions, establishes new retirement formulas that may not be exceeded by a public employer offering a defined benefit pension plan for employees first hired on or after January 1, 2013. Existing law, the Joint Exercise of Powers Act, generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power, which may include hiring employees and establishing retirement systems.

This bill would require a joint powers authority to offer defined benefit plans or formulas that are not PEPRA plans or formulas provided that the plans or formulas were those the employees received prior to the creation of the authority, the employees are not new members under PEPRA, and they are employed by the authority with 180 days, as specified.

~~Under the Public Employees' Medical and Hospital Care Act (PEMHCA), an uninsured surviving spouse or other eligible family~~

~~member of a deceased firefighter or peace officer is eligible to enroll in a health benefit plan approved or maintained by the Board of Administration of the Public Employees' Retirement System if the death of the firefighter or peace officer occurred as a result of injury or disease arising out of, and in the course of, the firefighter's or peace officer's official duties, as specified. Under PEMHCA, the employer of a deceased firefighter or peace officer is required to notify the board within 10 days of the death of the firefighter or peace officer if a spouse or a family member may be so eligible for enrollment.~~

~~This bill would require the employer to also provide the board with updated contact information of the spouse or family member. By requiring local government employers to provide this contact information, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes/no.~~

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7522.05 is added to the Government Code,*
2 *to read:*
3 *7522.05. (a) A joint powers authority formed on or after*
4 *January 1, 2013, and formed pursuant to the provisions of the*
5 *Joint Exercise of Powers Act (Article 1 (commencing with Section*
6 *6500) of Chapter 5), where at least one member agency provided*
7 *benefits on or before December 31, 2012, as described in*
8 *subdivision (c) of Section 7522.02, shall provide employees of that*
9 *joint powers authority the defined benefit plan or formula that*
10 *those employees received from their respective employers prior*
11 *to the exercise of a common power where that employee was not*
12 *a new member with that employer and subsequently is employed*
13 *by the joint powers authority within 180 days of the member agency*
14 *providing for the exercise of a common power.*

(b) *The formation of a joint powers authority on or after January 1, 2013, shall not act in a manner as to exempt a new employee or a new member, as defined by Section 7522.04, hired by that joint powers authority from the requirements of the Public Employees' Pension Reform Act of 2013. New members may only participate in a defined benefit plan or formula that conforms to the requirements of the Public Employees' Pension Reform Act of 2013.*

~~SECTION 1. Section 22820 of the Government Code is amended to read:~~

~~22820. (a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, a firefighter employed by the federal government who was a resident of this state and whose regular duty assignment was to perform firefighting services within this state, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 business days of the death of the employee if a spouse or family member may be eligible for enrollment in a health benefit plan under this section, and shall provide the board with updated contact information of the spouse or family member.~~

~~(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death~~

1 occurred as a result of injury or disease arising out of and in the
2 course of his or her official duties as required under subdivision
3 (a), that dispute shall be determined by the Workers' Compensation
4 Appeals Board, subject to the same procedures and standards
5 applicable to hearings relating to claims for workers' compensation
6 benefits. The jurisdiction of the Workers' Compensation Appeals
7 Board under this section is limited to the sole issue of industrial
8 causation and this section does not authorize the Workers'
9 Compensation Appeals Board to award costs against the system.

10 (e) (1) Notwithstanding any other provision of law, and except
11 as otherwise provided in subdivision (d), the state shall pay the
12 employer contribution required for enrollment under this part for
13 the uninsured surviving spouse of a deceased firefighter or peace
14 officer for life, and the other uninsured eligible family members
15 of a deceased firefighter or peace officer, provided the family
16 member meets the eligibility requirements of Section 22775 and
17 regulations pertinent thereto.

18 (2) The contribution payable by the state for each uninsured
19 surviving spouse and other uninsured eligible family members
20 shall be adjusted annually and be equal to the amount specified in
21 Section 22871.

22 (3) The state's contribution under this section shall commence
23 on the effective date of enrollment of the uninsured surviving
24 spouse or other uninsured eligible family members. The
25 contribution of each surviving spouse and eligible family member
26 shall be the total cost per month of the benefit coverage afforded
27 him or her under the plan less the portion contributed by the state
28 pursuant to this section.

29 (d) The cancellation of coverage by an annuitant, as defined in
30 this section, shall be final without option to reenroll, unless
31 coverage is canceled because of enrollment in an insurance plan
32 from another source.

33 (e) For purposes of this section, "surviving spouse" means a
34 spouse who was married to the deceased firefighter or peace officer
35 on the deceased's date of death and either was married for a
36 continuous period of at least one year prior to the date of death or
37 was married to the deceased prior to the date the deceased
38 firefighter or peace officer sustained the injury or disease resulting
39 in death.

1 (f) ~~For purposes of this section, “uninsured” means that the~~
2 ~~surviving spouse is not enrolled in an employer-sponsored health~~
3 ~~plan under which the employer contribution covers 100 percent~~
4 ~~of the cost of health care premiums.~~

5 (g) ~~The board has no duty to identify, locate, or notify any~~
6 ~~surviving spouse or eligible family member who may be or may~~
7 ~~become eligible for benefits under this section.~~

8 SEC. 2. ~~If the Commission on State Mandates determines that~~
9 ~~this act contains costs mandated by the state, reimbursement to~~
10 ~~local agencies and school districts for those costs shall be made~~
11 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
12 ~~4 of Title 2 of the Government Code.~~